

REMARKS

Restriction Requirement

In the above-identified Office Action, the examiner set forth a restriction requirement and required election of one of three groups under 35 U.S.C. § 121. Further to communications with the undersigned, the examiner acknowledged an error in the grouping of the claims in the Office Action, and indicated that the corrected restriction groups are as presented below. The Examiner also informed the undersigned that the revised groups are noted in an Interview Summary placed in the file pursuant to a communication on December 8, 2003.

- I. Claims 1-22, drawn to a lateral assay device, classified in class 436, subclass 518, for example.
- II. Claims 23-28, drawn to a method, classified in class 435, subclass 7.94, for example.
- III. Claims 29-34, drawn to a method, classified in class 435, subclass 7.94, for example.

According to the Office Action, Claims 1-6, 10-22, 23, 24, 26-28, 29, 30, and 32-34 are generic. Applicant is required to elect a single disclosed species to which the claims shall be restricted if no generic claim is finally held to be allowable (MPEP §809.03). Species within these purported genera are identified in the Office Action as follows:

- Species 1 sailfish
- Species 2 blue marlin
- Species 3 white marlin

In response, Applicants hereby elect Group I (Claims 1-22), drawn to a lateral assay device, and elect Species 1 (sailfish) should the Examiner find a generic claim to be non-allowable. This election is made without traverse.

Based on the above election, withdrawal of the outstanding restriction requirement and substantive examination of all elected claims is respectfully requested. Applicants invite the Examiner to call the undersigned if it is believed that the above restriction election is incomplete or improper in any way, or if a telephonic interview will expedite the prosecution of the application to an allowance.

No fees are believed due with the filing of the above Response. However, the Commissioner for Patents and Trademarks is hereby authorized to charge any deficiency in any fees due with the filing of this paper or credit any overpayment in any fees paid on the filing, or during prosecution of this application to Deposit Account No. 50-0951.

Respectfully submitted,

Dated: December 19, 2003

Docket No. 6818-26



Gregory A. Nelson
Registration No. 30,577
Margaret J. McLaren, Ph.D.
Registration No. 53,303
AKERMAN SENTERFITT
222 Lakeview Avenue, Suite 400
P.O. Box 3188
West Palm Beach, FL 33402-3188
Tel: 561-653-5000